



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,410	03/29/2004	Kuo-Chin Chang		5644
25859	7590	08/15/2007		
WEI TE CHUNG FOXCONN INTERNATIONAL, INC. 1650 MEMOREX DRIVE SANTA CLARA, CA 95050				
			EXAMINER GARG, YOGESH C	
			ART UNIT 3625	PAPER NUMBER
			MAIL DATE 08/15/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/813,410

Applicant(s)

CHANG ET AL.

Examiner

Yogesh C. Garg

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed on 6/27/2007 is acknowledged. Claims 1, and 8 are amended and claims 2 and 12 are canceled. Claims 1, 3-11 are currently pending for examination.

Response to Arguments

2.1. Applicant's arguments filed on 6/27/2007 (see Remarks, pages 6-7) with respect to rejection of claims 1, 3-7 under 35 U.S.C. 101 have been considered and are persuasive in view of paragraph 0014, page 4 of the specification and Fig#1 and therefore the rejection is withdrawn. Fig.1 and paragraph 0014 clearly shows that the database server and application server are computers including software modules as shown in Fig.2 and are interacting with client computers via a communication network. As regards claim 12 since it is canceled the rejection under 35 U.S.C. 101 is moot.

2.2. Applicant's arguments with respect to currently amended claim 1 have been considered but are moot in view of the new ground(s) of rejection necessitated due to current amendments.

Applicant's arguments filed 6/27/2007 that Thackston system fails to disclose receiving at least one new quotation offered by at least one bidder from the electronic marketing system are not persuasive. The examiner respectfully disagrees because Thackston does teach this limitation, see paragraph 0028 and 0073. Negotiations are conducted and records relating to projects are stored in databases. Fig.14 and

Art Unit: 3625

paragraphs 0151-0152 disclose the negotiating process between the users and suppliers to finalize a negotiated contract and a negotiated contract would inherently include to and fro responses from the buyer and supplier including a new offer/quote from a bidder/supplier in response to the user's response/request for a counter offer.

3. Note: Claims Directed to an Apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly* 263 F.2d 844, 847, 120 USPQ 582, 531 (CCPA 1959). A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1657 (bd Pat. App. & Inter. 1987). Thus the intended use recited in the limitations of system claims 1-7 would be further treated as not differentiating the claimed system from a prior art apparatus if the prior art system teaches all the structural limitations, such as modules and servers of the claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3625

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thackston (US PG-Publication 2002/0035450A1) in view of Yeh et al. (US PG-Publication 20040133498 A1), hereinafter Yeh.

Regarding claim 1, Thackston discloses a project bidding transaction management system connectable with an electronic marketing system and a financial management system, the project bidding transaction management system comprising:

- a database server comprising a database for storing data used or generated in implementing the project bidding transaction management system (see fig.2, references "Nicad server system 200" and databases "210";

- a plurality of client computers, each of the client computers providing a user interface for users of an outsourcing organization to input requirements of an outsourcing project and inquire of data stored in the database (see at least Fig.2 and paragraph 0068. "220" represents the client computers which provide a user interface for users of the prime contractor, that is the outsourcing organization, for interacting with the network including data stored in databases and the supplier management system "230" representing the claimed electronic marketing system. Through the client computer a user can input requirements to any of his project/engineering requirements); and

Art Unit: 3625

an application server for managing project bidding transactions (see fig.2, references "Nicad server system 200" and paragraphs 0023-0025, 0028,0030), the application server comprising:

a basic data maintenance module provided for receiving requirements of outsourcing projects, and generating specifications for the outsourcing projects according to the requirements (see Abstract, paragraphs 0026 and 0028 which disclose providing specification and drawings for the parts/projects to be outsourced to fabricators);

a bidder selection module provided for selecting a plurality of suitable bidders from a list of companies wishing to bid on an outsourcing project according to the specifications for the outsourcing project, and for downloading basic data on such selected bidders (see at least paragraph 0027-0028 which discloses selecting qualified fabricators to bid for the project according to specification and drawings of the part/project);

a price negotiation management module provided for performing price negotiations with bidders according to quotations offered by the bidders and an acceptable price range set by the financial management system, receiving at least one new quotation offered by at least one bidder from the electronic marketing system, and generating price negotiation records (see paragraph 0028 and 0073 that negotiations are conducted and records relating to projects are stored in databases. Fig.14 and paragraphs 0151-0152 disclose the negotiating process between the users and suppliers to finalize a negotiated contract and a negotiated contract would inherently

Art Unit: 3625

include a new offer/quote from a bidder/supplier in response to the user's request for a counter offer.); and

a bid comparison module provided for determining a contractor for each of the outsourcing projects by comparing the quotations and generating bid results and transmitting the bid results to the electronic marketing systems (see at least paragraphs 0289-0299. In paragraph 0298 Thackston discloses that after the bidding is closed the bids are evaluated which would include comparison of the bids and then contract awards are notified to the suppliers/vendors via supplier/vendor network system which in itself denotes an end to the bidding process.

). Thackston does not disclose a bid module comparing the quotations with a base price set for the outsourcing project by the financial management system, generating bid results and transmitting the bid results to the electronic marketing system.

However, in the same field of endeavor, Yeh discloses this limitation(see at least Abstract, Figs 2, 3, 4, paragraphs 0010-0012 and claims 1 and 7). In view of Yeh, it would be obvious to one of an ordinary skilled in the art to modify Thackston to incorporate the step of automatically conducting a price comparison analysis, generating bid results and transmitting the bid results to the electronic marketing system [to the supplier/vendor system] because it would enable the Thackston system to evaluate and compare the received bids automatically enabling to make an intelligent decision in awarding the orders to suppliers/fabricators/vendors.

Regarding claim 3 , Thackston suggests further comprising a project schedule setting module provided for compiling project schedules according to specifications for the outsourcing projects and implementation plans provided by the contractors (see at least paragraphs 0088-0090, 01666 and 0295 which disclose setting project schedule according to requirements of the parts/projects being outsourced to fabricators) .

Regarding claim 4, Thackston discloses further comprising a contract management module for providing different legal contract templates for the outsourcing organization and respective contractors, and managing contracts signed between respective parties (see at least paragraph 0152, and Fig.6, module 696).

Regarding claim 5, Thackston discloses that the application server further comprises a message transmission module provided for generating notices recording the bid results, and transmitting the notices to corresponding contractors (see at least paragraphs 272 and 281 which disclose message transmission modules for transmitting messages to fabricators via e-mail).

Regarding claim 6, Thackston discloses that the electronic marketing system provides an operating platform through which outsourcing organizations can initiate public bidding activities, and collect basic information on bidding companies and their respective quotations (see at least paragraph 0028).

Art Unit: 3625

Regarding claim 7, this limitation is already discussed and analyzed in claim where bids are compared with set base bid prices and followed by negotiations. Further, final negotiated bids would match the acceptable price range of the buyer/prime contractor in Thackston for outsourcing projects to the fabricators.

Regarding claims 8-11, their limitations are closely parallel to the limitations already covered in claims 1-7 and therefore they are also analyzed and rejected based on the similar rationale used in rejecting claims 1-7.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3625

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C. Garg whose telephone number is 571-272-6756. The examiner can normally be reached on Increased Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Yogesh C Garg
Primary Examiner
Art Unit 3625

YCG
8/13/2007